

CONSTRUCTION CONTRACTS BIDDING AND AWARDS

The Dent-Phelps R-III School District seeks to provide and maintain safe facilities capable of supporting the education mission of the district, while at the same time utilizing public funds prudently.

Definitions

For the purposes of this policy, the following definitions apply:

Construction - Building a new facility or improving, enlarging, altering, painting, decorating, excavating, demolishing or performing major repairs on an existing facility.

Facility - A building, structure, stadium, field or parking lot, or part thereof, such as a roof or heating or air conditioning system.

Major Repair - Replacement or repair of existing facilities when the size, type or extent of the facility is changed or increased.

Personal Representative - Unless otherwise specified in a construction contract, the district's personal representative is the superintendent or designee.

Project Planning

Construction projects will be planned to cause the least disruption to the district's education program and ensure the safest possible environment for students, staff and the public. District staff will rely on the district's long-term facilities plan when making decisions regarding construction and major repair of district facilities. The district is committed to providing accessible facilities. All projects will comply with laws regarding accommodations for individuals with disabilities, and the district will consider other recommended accommodations as well.

Before bidding a project, the district will determine whether engineering, architectural or land surveying services are required and whether the district will use a construction manager, a construction manager at risk, a general contractor or a design-build contractor. These professional services will be selected in accordance with law and Board policy. The superintendent or designee is authorized to contact legal counsel for assistance in complying with the applicable laws and drafting or reviewing proposed contract language.

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Purchasing Materials

All materials purchased either directly by the district or indirectly by the contractor or subcontractors must comply with legal requirements, including the purchasing preferences required by law. In addition, materials purchased for use in projects funded by federal awards must comply with federal requirements.

Bidding

All construction projects that may exceed an expenditure of \$50,000 shall be advertised in a newspaper of general circulation once a week for two consecutive weeks, in accordance with law, and should also be advertised in places likely to get responses from contractors. Those places should include business, trade or minority newspapers or other modes of communication, such as the district's website or other websites. Projects will not be split or artificially divided for the purpose of avoiding these competitive bidding requirements.

Prior to advertising for bids, the superintendent or designee and the architect or construction manager, if applicable, will draft detailed bid specifications for the construction project. Bid specifications will include all legal mandates including, but not limited to, requiring:

1. Payment of the prevailing wage or the public works contracting minimum wage (PWCMW) when required by state law.
2. Laborers to receive mandatory safety training.
3. Contractors bidding on a contract for services in excess of \$5,000 to provide a sworn affidavit and supporting documentation that affirms the contractor's participation in a federal work authorization program, such as E-Verify, and that the bidder will not employ unauthorized workers for the project. A contractor is only required to provide this affidavit to the district annually.
4. A performance bond if the project is estimated to exceed \$50,000.

The district may also require a bidder's bond in an amount determined by the estimated cost of the project.

In accordance with the Sunshine Law and Board policy, the Board may discuss bid specifications in closed session, and the content of those bid specifications will remain confidential until they are officially approved by the Board or published for bidding. Likewise, sealed bids and related documents will be closed until the bids are opened.

Sealed bids may be opened at a public meeting of the Board of Education or by administrative personnel. In either case, all bids shall be publicly opened, and the date, time and place of the bid opening shall be included in the bid notice. Notice of the bid opening will also be posted for the public.

The district will not entertain bids that are not made in accordance with the specifications furnished by the district. The district reserves the right to waive minor technical defects in a bid, reject any or all bids, reject any part of a bid and advertise for new bids. If the scope of the project changes substantially, the district will rebid the project.

The Board will determine which responsible bidder has the lowest bid and direct the superintendent or designee to negotiate a satisfactory contract prior to final approval of the bid.

Contracting

The superintendent or designee is authorized to consult legal counsel regarding contract language. Any contract the district enters into must include all legally required provisions. The contract must be approved by an affirmative vote of a majority of the whole Board to be binding.

Payment and Retainage

Unless contrary to any federal funding requirement or unless funds from a state grant are not received in a timely manner, the district's personal representative will ensure that prompt payment is made to the contractor and any professional engineer, architect, landscape architect or land surveyor in accordance with law and the contract governing the construction project.

The Board must approve the payment of all bills by an affirmative vote of a majority of the whole Board.

The personal representative shall pay any professional engineer, architect, landscape architect or land surveyor the amount due within 30 days following the receipt of an invoice prepared and submitted in accordance with the contract terms. In addition to the payment due, the contracting agency shall pay interest at the rate of one and one-half percent per month calculated from the expiration of the 30-day period until fully paid.

Contractors

In accordance with law, the district's personal representative may retain a portion of the payment to a contractor, not to exceed five percent of the value of the contract or subcontract, until after the entire project has been completed. If the contractor is not required by law to obtain a bond because the cost

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of the project is not estimated to exceed \$50,000, the district's personal representative may retain an amount not to exceed ten percent of the value of the contract or subcontract.

When applicable, the architect or construction manager shall approve all payment requests prior to submission to the Board of Education for payment. The superintendent or designee will examine all work performed on projects where no architects or construction managers are used.

If the prevailing wage or the PWCMW is required by law, the contractor must file an Affidavit of Compliance with the district before final payment will be approved or paid. The district will withhold and retain any amounts due prior to making final payment to any contractor who fails to pay the appropriate wage as required by law.

Change Orders

Change orders in excess of \$5,000 will not be approved without Board action except as outlined in this policy. The district's personal representative may authorize change orders of less than \$5,000 but must submit written documentation of the change order to the Board as soon as possible. The personal representative may not restructure a change order in an attempt to circumvent the requirement for Board approval.

The personal representative may also approve change orders that exceed \$5,000 if the time it would take to obtain Board approval would negatively affect the construction timeline or project budget and if the change order does not include work outside the scope of the original project that would be considered a new, separate project. This exception should be used rarely, if ever. When used, the personal representative must submit documentation of the change order to the Board immediately with an explanation as to why it was approved prior to Board action, and the change order will be placed on the Board's next meeting agenda for ratification.

If a change order increases the cost of a project to over \$75,000, the district will require the contractor to pay either the prevailing wage or the PWCMW for the portion of the project that exceeds \$75,000 and provide an Affidavit of Compliance to the district prior to payment.

All change orders approved by the Board or the personal representative shall be documented and retained with other documents related to the construction project. If a submitted change order includes work outside the scope of the original project that results in a substantial change, the Board will rebid the work contained in the change order.

Construction Projects Conducted on Behalf of the District

The district appreciates business and community support of its education mission and welcomes both financial and physical contributions to the district. It is important for taxpayers and patrons to understand that various laws apply to projects conducted on behalf of the district even when those projects are not directly funded by the district. Further, it is essential that all construction projects adhere to the highest level of quality and safety. The district and the donor must ensure compliance with all applicable laws before a construction project is conducted on school grounds regardless of the labor source or payment method.

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Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.

Adopted: 11-16-17

Revised: 2-20-20

Cross Refs: BBFA, Board Member Conflict of Interest and Financial Disclosure
DGA, Authorized Signatures
DJF, Purchasing
DJFA, Federal Programs and Projects
DK, Payment Process
IGB, Accommodation of Students with Disabilities

Legal Refs: ' ' 34.057, .059, .209, 67.5050, .5060, 107.170, 162.301, 177.086, 285.530, 290.210
- .340, 292.675, 432.070 - .080, 493.010 - .140, 610.021, RSMo.
8 C.S.R. 30-3.010 - .060

Dent-Phelps R-III School District, Salem, Missouri